

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

EARL WHITMIRE,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-09-305-D
)	
PAUL A. KASTNER, Warden,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Mr. Earl Whitmire has filed a petition for habeas relief. Rather than pay the filing fee, Mr. Whitmire moved for leave to proceed *in forma pauperis*. The motion indicates that Mr. Whitmire has \$156.05, and the filing fee is only \$5.00.¹ Because Mr. Whitmire has adequate funds for the filing fee, the undersigned recommends that the Court: (1) deny the motion for leave to proceed *in forma pauperis*, (2) order payment of the filing fee within twenty days,² and (3) dismiss the action without prejudice if Mr. Whitmire fails to timely pay the filing fee or show good cause for the failure to do so. *See* W.D. LCvR 3.3(e).

The Petitioner is advised of his right to object to this report and recommendation by April 14, 2009. *See* W.D. Okla. Local Civil Rule 72.1. If the Petitioner does object, he must file a written objection with the Court Clerk for the United States District Court, Western District of Oklahoma. The Petitioner is further advised that if he does not timely object, he

¹ *See* 28 U.S.C. § 1914(a) (2000).

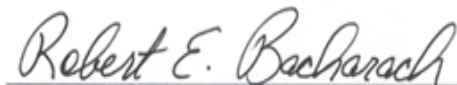
² *See* W.D. Okla. LCvR 3.3(e).

would waive his right to appellate review over a denial of pauper status in the district court.

See Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation terminates the referral.

Entered this 25th day of March, 2009.



Robert E. Bacharach
United States Magistrate Judge